

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Proposed
Amendment to 4 CSR 240-2.080

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Case No. AX-2002-118

COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY

COMES NOW Southwestern Bell Telephone L.P., d/b/a Southwestern Bell Telephone Company (Southwestern Bell), and for its Comments regarding the Missouri Public Service Commission's (Commission) proposed amendment to 4 CSR 240-2.080, states to the Commission as follows:

1. The Commission's proposed amendment to 4 CSR 240-2.080 was published in the Missouri Register on July 1, 2002. The Commission's proposed amendment to Rule 2.080 consists of a new section (21):

PURPOSE: This amendment will require parties before the Missouri Public Service Commission to file a list of issues in a certain format.

(21) Any list of issues ordered by the commission must contain one (1) or more questions presented for decision, stated in the following form per issue: in three (3) separate sentences, with factual and legal premises, followed by a short question; in no more than seventy-five (75) words; and with enough facts woven in that the commission will understand how the question arises in the case.

(A) The questions must be clear and brief, using the style of the following examples of issue statements, which illustrate the clarity and brevity and the parties should aim for:

1. Example A: The Administrative Procedures Act does not require the same administrative law judge to hear the case and write the final order. ABC Utility Company filed an appeal based on the fact that the administrative law judge who wrote the final order was not the administrative law judge who heard the case. Is it reversible error for one administrative law judge to hear the case and a different administrative law judge to write the final opinion?

2. Example B: For purposes of establishing rates, ABC Utility Company is entitled to include in its costs expenses relating to items that are used or useful in providing services to its customers. ABC Utility Company has spent money to clean up environmental damages resulting from the operation of manufactured-gas plants some 70 to 80 years ago. Should ABC Utility Company be allowed to include these expenses among its costs in establishing its future natural gas rate?


2. Although Southwestern Bell appreciates the Commission's desire to achieve uniformity and brevity in the manner in which contested issues are stated by the parties, Southwestern Bell believes the Commission's proposed rule will simply lead to more disputes and will not be workable on a practical basis. Like other parties, Southwestern Bell has actively participated in numerous contested cases over the past few years where the parties were required to submit a list of issues to the Commission prior to an evidentiary hearing. Southwestern Bell's experience has been that it is often difficult for the parties to agree on a description of the issues for the Commission to determine, much less agree on the factual and legal premises relating to an issue. As Commission cases continue to become more complex, this task will become even more difficult, particularly if the parties are expressly required by rule to also agree on "factual and legal premises" applicable to the issues to be determined, and are limited to only three (3) sentences.

3. For most cases, Southwestern Bell does not believe that the parties will be able to agree on a brief description of either the "factual premises" or "legal premises" relating to an issue. As a result, Southwestern Bell believes that in most cases, it will be difficult to comply with the Commission's proposed rule, resulting in less unanimity, not more, in descriptions of issues presented for Commission determinations.

WHEREFORE, for the reasons described above, SWBT respectfully requests that the Commission not adopt proposed Rule 4 CSR 240-2.080(21).

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE L.P.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served on counsel for all parties below by hand-delivery on July 29, 2002.


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